

103^D CONGRESS
2^D SESSION

S. 2109

To amend the Public Health Service Act and the Social Security Act to provide improved and expanded access to comprehensive primary health care and related services for medically underserved and vulnerable populations through the provision of financial support for the development of community-based health networks and plans, to permit federally-assisted health centers to expand their capacity and develop and operate new sites to serve underserved and vulnerable populations, to provide certain financial and other protections for such networks, plans, and health centers, and to facilitate the involvement of, and payment to, entities serving underserved and vulnerable populations in the training and education of primary care health professionals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12 (legislative day, MAY 2), 1994

Mr. HOLLINGS (for himself, Mrs. MURRAY, Mr. BOREN, Mr. COCHRAN, Ms. MIKULSKI, Mr. INOUE, Mr. HATCH, and Ms. MOSELEY-BRAUN) introduced the following bill; which was read the first time

A BILL

To amend the Public Health Service Act and the Social Security Act to provide improved and expanded access to comprehensive primary health care and related services for medically underserved and vulnerable populations through the provision of financial support for the development of community-based health networks and plans, to permit federally-assisted health centers to expand their capacity and develop and operate new sites to serve underserved and vulnerable populations, to provide cer-

tain financial and other protections for such networks, plans, and health centers, and to facilitate the involvement of, and payment to, entities serving underserved and vulnerable populations in the training and education of primary care health professionals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
 5 “Access to Community Health Care Act of 1994”.

6 (b) FINDINGS.—Congress finds the following:

7 (1) Efforts to assure universal coverage for
 8 comprehensive health care benefits are a vitally im-
 9 portant part of achieving effective national health
 10 care reform.

11 (2) The provision of universal insurance cov-
 12 erage, while vitally important, will not alone address
 13 the critical needs of the estimated 43,000,000 Amer-
 14 icans who are underserved by the current health
 15 care system, and who lack access to the most basic
 16 health services.

17 (3) Access to, and coordination of, health care
 18 is especially difficult for those Americans who live in
 19 underserved rural and inner-city communities or who
 20 are members of other vulnerable groups, including

1 migratory and seasonal agricultural workers, persons
2 who are homeless, those with HIV infection, those
3 who suffer from substance addiction, high-risk preg-
4 nant women, infants and children, immigrants and
5 refugees, and individuals with disabilities.

6 (4) The consequences of poor access to, and
7 lack of coordination of, health care among the un-
8 derserved is evidenced by elevated infant and child-
9 hood illness and mortality rates, over-utilization of
10 emergency rooms and other inappropriate providers
11 for primary care services, and hospitalization rates
12 for preventable conditions that are significantly
13 higher than the national average.

14 (5) Efforts to provide increased access to, and
15 coordinate the delivery of, vital primary health care
16 and related services for underserved and vulnerable
17 Americans will not only contribute to improved
18 health status, but will also reduce unnecessary care
19 and the overall costs of health care.

20 (6) Essential community providers, such as the
21 community and migrant health centers, collectively
22 referred to as health centers, which serve more than
23 7,000,000 needy Americans, provide an effective and
24 proven model for extending access to all underserved
25 and vulnerable Americans.

1 (7) Support for the development and operation
2 of new and expanded sites served by the health cen-
3 ters and similar primary health care providers, is
4 needed to extend access to comprehensive primary
5 health care services for the millions of Americans
6 who remain unserved or underserved.

7 (8) As managed care has achieved recognition
8 as a means of organizing and paying for health care
9 for many Americans, there is a need to assure that
10 such arrangements develop in a manner that is re-
11 sponsive to the needs of underserved people and
12 communities. Of particular importance is the devel-
13 opment of community-based networks of health cen-
14 ters and other essential community providers that
15 offer high quality care to individuals and that en-
16 deavor to both contain costs and reduce unnecessary
17 or inappropriate uses of high-cost services.

18 (9) Essential community providers such as
19 health centers and community-based networks serv-
20 ing such populations must be afforded certain pro-
21 tections from full financial risk for the cost of serv-
22 ing such populations and communities. Protections
23 are needed because underserved populations typically
24 require more frequent and intensive care, and be-
25 cause reduced use of higher-cost inpatient, emer-

1 agency and specialty care will depend on the in-
2 creased provision of primary care as well as related
3 and enabling services.

4 (10) Health centers and community-based net-
5 works that participate in arrangements which
6 produce savings of grant funds or increased revenues
7 that will be used to further expand or improve serv-
8 ices to medically underserved populations should be
9 afforded protection from anti-kickback laws.

10 (11) Health centers, community-based networks
11 and other essential community providers of com-
12 prehensive primary care services to the underserved
13 provide the most appropriate locations and condi-
14 tions for educating and training primary health care
15 professionals, and should be centrally involved in
16 such education and training efforts.

17 **SEC. 2. GRANTS FOR THE DEVELOPMENT AND OPERATION**
18 **OF HEALTH CENTERS AND COMMUNITY**
19 **HEALTH NETWORKS AND HEALTH PLANS.**

20 (a) SERVICES AUTHORIZED AT SCHOOLS AND OTHER
21 APPROPRIATE LOCATIONS.—Section 330(a) of the Public
22 Health Service Act (42 U.S.C. 254c(a)) is amended by in-
23 serting after “provides” the following: “at appropriate lo-
24 cations, that may include schools and other sites”.

1 (b) ENABLING AND OUTREACH SERVICES.—Section
2 330(a) of such Act (42 U.S.C. 254c(a)) (as amended by
3 subsection (a)), is further amended—

4 (1) in paragraph (5), by striking “and” at the
5 end thereof;

6 (2) in paragraph (6)—

7 (A) by inserting “the services of outreach
8 workers and others to determine, or assist in
9 determining, the eligibility of individuals to re-
10 ceive services and benefits under Federal, State
11 and local health programs, and to assist such
12 individuals in enrolling in such programs, and
13 other” before “patient case”; and

14 (B) by adding “and” at the end thereof;
15 and

16 (3) by inserting after paragraph (6) the follow-
17 ing new paragraph:

18 “(7) enabling services (defined as those services
19 that are not otherwise described in this subsection)
20 that promote access to necessary health and other
21 human and social services, and that increase the ca-
22 pacity of individuals to utilize the items and services
23 included as covered benefits under Federal, State,
24 and local health programs;”.

1 (c) COMMUNITY HEALTH SERVICE NETWORKS AND
2 PLANS.—Section 330 of such Act (42 U.S.C. 254c) is
3 amended by adding at the end thereof the following sub-
4 section:

5 “(l)(1) The Secretary may make a grant to one or
6 more community health centers that receive grants under
7 subsection (d)(l)(A), or to one or more federally qualified
8 health centers as defined in Section 1861(aa)(4) of the
9 Social Security Act, to support the development of a com-
10 munity health service network or plan as defined in para-
11 graph (3). Assistance received under a grant under this
12 subsection may be used to pay for the—

13 “(A) cost associated with the development of
14 the network or plan as a corporate entity, including
15 planning and needs assessments, and the cost associ-
16 ated with the development of appropriate contractual
17 agreements between the participating providers and
18 the network or plan;

19 “(B) cost associated with the development of
20 the internal management for the network or plan, as
21 well as the cost associated with the development of
22 financial, legal, clinical, information systems (exclu-
23 sive of systems that the Secretary determines are in-
24 formation highways), billing and reporting systems
25 for the network or plan;

1 “(C) cost associated with the development of
2 additional sites that will assure or enhance the pro-
3 vision and accessibility of primary health care and
4 enabling services to medically underserved popu-
5 lations, and residents of health professional shortage
6 areas;

7 “(D) cost associated with the recruitment,
8 training, and compensation of health professionals
9 and administrative staff;

10 “(E) acquisition, expansion, modernization of
11 facilities, conversion of unneeded hospital facilities to
12 facilities that will assure or enhance the provision
13 and accessibility of primary health care and enabling
14 services, as well as construction of new facilities and
15 purchase of major equipment (including equipment
16 necessary for support of external and internal infor-
17 mation systems);

18 “(F) amount of any reserves that are required
19 for furnishing services on a prepaid basis; and

20 “(G) such other costs as are necessary to as-
21 sure that the network or plan will be ready to as-
22 sume operational status by the end of the planning
23 and development phase.

24 “(2) The Secretary may make grants to support the
25 operation of community health service networks or plans

1 that received assistance under paragraph (1) for planning
2 and development and that meet the requirements of sub-
3 paragraphs (A) and (B) of paragraph (3). The costs for
4 which a grant may be made include, the costs described
5 in paragraph (1), and the otherwise unreimbursed costs
6 of furnishing services described in subsection (a) (except
7 for the costs of inpatient hospital services, extended care
8 facility services and long-term physical medicine) to medi-
9 cally underserved populations and residents of health pro-
10 fessional shortage areas and other hard-to-reach popu-
11 lations.

12 “(3)(A) For purposes of this section:

13 “(i) The term ‘community health service net-
14 work’ means a consortium of health care providers
15 that meets the following requirements:

16 “(I) The consortium is a public or non-
17 profit private entity whose principal purpose is,
18 with respect to the items and services that are
19 described in subsection (a), to provide all or a
20 portion of such items and services to a signifi-
21 cant number of individuals who are members of
22 a medically underserved population or popu-
23 lations, residents of health professional shortage
24 areas and other hard-to-reach populations in
25 the network service area.

1 “(II) The participation of health care pro-
2 viders in the consortium is governed by a writ-
3 ten agreement to which each of the participat-
4 ing providers is a party.

5 “(ii) The term ‘community health service plan’
6 means a health plan that meets the following condi-
7 tions:

8 “(I) The health plan is a public or non-
9 profit private entity, as defined in section
10 1903(m)(2)(A) of the Social Security Act,
11 whose principal purpose is, with respect to the
12 items and services that are described in sub-
13 section (a), to provide all or a portion of the
14 items and services to a significant number of
15 individuals who are members of a medically un-
16 derserved population or populations, residents
17 of health professional shortage areas in the
18 plan’s service area, and other hard-to-reach
19 populations in the plan’s service area.

20 “(II) The participation of health care pro-
21 viders in the health plan is governed by a writ-
22 ten agreement to which each of the participat-
23 ing providers is a party.

24 “(B) A community health service network or plan
25 shall—

1 “(i) be governed by individuals a majority of
2 whom are registered patients of the network or plan
3 or are representatives of the entities described in
4 clause (iv)(I), or a combination of such individuals;

5 “(ii) assure the provision of services through
6 participating providers (who may provide services di-
7 rectly or through contract) in accordance with all of
8 the requirements of subsection (e)(3) except sub-
9 paragraph (G);

10 “(iii) be reasonable in size to accomplish the ob-
11 jectives of this subsection;

12 “(iv) include as participating providers (unless
13 such provider(s) decline to participate)—

14 “(I) at a minimum, all entities providing
15 health services under grants under this section
16 or sections 329 or 340, and other federally
17 qualified health centers certified in accordance
18 with section 1861(aa)(4) of the Social Security
19 Act in the service area of the plan or network;

20 “(II) a reasonable number and combina-
21 tion (to ensure that services will be comprehen-
22 sive and accessible) of—

23 “(aa) public or nonprofit private enti-
24 ties that are entities providing health serv-
25 ices under grants under sections 340A,

1 1001 or title XXIII, title V of the Social
2 Security Act, title V of the Indian Health
3 Care Improvement Act, and the Indian
4 Self-Determination Act;

5 “(bb) rural health clinics certified in
6 accordance with Section 1861 (aa)(2) of
7 the Social Security Act; and

8 “(cc) local and State public health
9 agencies;

10 that collectively provide primary health and en-
11 abling services to residents of the network or
12 plan service area; and

13 “(III) at the option of the network or plan,
14 any other public or private entity that provides
15 primary health, enabling services or supple-
16 mental health services to the population served
17 by the network or plan; and

18 “(v) ensure that each participating provider
19 agrees to provide services regardless of an individ-
20 ual’s ability to pay.

21 “(4)(A) No grant may be made under paragraphs (1)
22 or (2) unless an application therefore is submitted to, and
23 approved by, the Secretary. Such an application shall be
24 submitted in such form and manner and shall contain such
25 information as the Secretary shall prescribe, including—

1 “(i) with respect to applications for planning
2 and development, the information required by sub-
3 section (c)(4) and a demonstration of how the appli-
4 cant will meet all requirements of paragraph (3) by
5 the end of the period of support under paragraph
6 (1); and

7 “(ii) with respect to applications for operations,
8 the information required by subsection (e).

9 “(B) In evaluating applications submitted under sub-
10 paragraph (A), the Secretary shall consider—

11 “(i) the extent to which the applicant proposes
12 to provide or expand the provision of services de-
13 scribed in subsection (a) in a manner that is coordi-
14 nated and assures accessibility of service to medi-
15 cally underserved populations and health profes-
16 sional shortage areas and which will otherwise meet
17 the requirements of paragraph (3) when the network
18 or plan assumes operational status;

19 “(ii) the relative need of the populations and
20 areas proposed to be served for the services proposed
21 to be provided;

22 “(iii) whether the proposed network or plan de-
23 scribed in the application is reasonable in size and
24 capacity;

1 “(iv) whether the proposed network or plan will
2 address such other needs of the medically under-
3 served population or populations and health profes-
4 sional shortage areas to be served as the applicant
5 or the Secretary may identify;

6 “(v) evidence of State and local support for the
7 network or plan; and

8 “(vi) whether the proposed budget to support
9 the network or plan, is reasonable and justified, tak-
10 ing into account other sources of support for the
11 proposed network or plan and considering whether
12 levels of support previously received from other
13 sources have been maintained.

14 “(5) Not more than two grants may be made under
15 this subsection for planning and developing the same net-
16 work or plan.”.

17 (d) FLEXIBLE AUTHORITY.—Section 330 of such Act
18 (42 U.S.C. 254c) (as amended by subsection (c)) is fur-
19 ther amended by adding at the end thereof the following
20 new subsection:

21 “(m)(1) The Secretary may make grants to public
22 and nonprofit private entities that meet all of the require-
23 ments of subsection (l), except for paragraph (3)(B)(i)
24 and such other requirements of that subsection as the Sec-
25 retary may decide for good cause to waive, for the purpose

1 of planning, developing and operating health networks and
2 health plans as the Secretary determines will provide or
3 enhance the provision and accessibility of the services that
4 are described in subsection (a) to medically underserved
5 populations and health professional shortage areas in the
6 service area of the network or plan.

7 “(2) An application for a planning and development
8 grant under paragraph (1) must meet the requirements
9 of subsection (l)(4)(A)(i) and an application for an oper-
10 ations grant under paragraph (1) must meet the require-
11 ments of subsection (l)(4)(A)(ii).

12 “(3)(A) In evaluating applications submitted under
13 paragraph (2), the Secretary will consider the factors de-
14 scribed in subsection (l)(4)(B).

15 “(B) The Secretary may not approve an application
16 for a grant under this subsection unless the Secretary de-
17 termines that the network or plan involved will at a mini-
18 mum assure significant community involvement. For pur-
19 poses of this subsection, the term ‘significant community
20 involvement’ is demonstrated if the health network, or
21 health plan—

22 “(i) is governed by a board of directors, at least
23 one-third of the members of which are registered pa-
24 tients or representatives of entities described in sub-

1 section (l)(3)(B)(iv)(I), or a combination of such in-
2 dividuals; or

3 “(ii) has established a patient advisory council,
4 composed of representative registered patients of the
5 network or plan, through which registered patients
6 are able to directly participate in decisions that in-
7 fluence the character and implementation of pro-
8 grams of the network or plan.

9 The Secretary shall give priority to applicants that meet
10 the requirements of clause (i) over applicants that meet
11 the requirements of clause (ii).

12 “(4) Not more than two grants may be made under
13 this subsection for planning and developing the same
14 health network or health plan.

15 “(5) Assistance received under a grant under para-
16 graph (1) for the planning and development of a health
17 network or health plan may be used to pay the costs de-
18 scribed in subsection (l)(1). Assistance received under a
19 grant under paragraph (1) for the operation of such a
20 health network or health plan may be used to pay the costs
21 described in subsection (l)(2).”.

22 (e) AUTHORIZATION OF APPROPRIATIONS.—

23 (1) IN GENERAL.—Section 330(g)(1)(A) of
24 such Act (42 U.S.C. 254c(g)(1)(A)) is amended by
25 striking “\$440,000,000” and all that follows

1 through the end thereof and inserting the following:
2 “\$925,000,000 for fiscal year 1995, \$1,425,000,000
3 for fiscal year 1996, \$1,625,000,000 for fiscal year
4 1997, \$1,725,000,000 for fiscal year 1998,
5 \$1,725,000,000 for fiscal year 1999,
6 \$1,725,000,000 for fiscal year 2000, and not less
7 than \$1,725,000,000 for each of the fiscal years
8 2001 through 2005. The preceding sentence con-
9 stitutes budget authority in advance of appropria-
10 tions acts and represents the obligation of the Fed-
11 eral government to provide funding for payments in
12 the amounts, and for the fiscal years specified under
13 this section. Such levels shall not be subject to offset
14 or reprogramming for any reason.”.

15 (2) PLANNING AND OPERATING HEALTH NET-
16 WORKS AND PLANS.—Section 330(g)(1) of such Act
17 (42 U.S.C. 254c(g)(1)) is amended by adding at the
18 end thereof the following new subparagraph:

19 “(C)(i) For the purpose of making grants for activi-
20 ties authorized under subsection (m), the Secretary may
21 expend an amount not to exceed 15 percent of the amount
22 appropriated under subparagraph (A) for any fiscal year
23 that is in excess of \$625,000,000. The authority of the
24 Secretary to make grants for such activities is effective
25 for any fiscal year only to such extent or in such amounts

1 exceeding \$625,000,000 as are provided for in appropria-
2 tion Acts.

3 “(ii) For the purpose of making grants under sub-
4 sections (c) and (d) the Secretary shall expend not less
5 than \$625,000,000 for each fiscal year.

6 “(iii) In determining the level of funding to set aside
7 for grants under subsections (c) and (d) in excess of
8 \$625,000,000, the Secretary shall increase such amount
9 by such sums as are necessary to ensure that individual
10 recipients of grants under such subsections have funding
11 each fiscal year in amounts adequate to—

12 “(I) repay loans that have been made to such
13 recipients under Farmers Home Administration pro-
14 grams, under section 330A of this Act, or under any
15 other Federal program, or any other loans with re-
16 spect to which the Secretary has authorized the use
17 of funds budgeted in accordance with this section for
18 repayment; and

19 “(II) to cover the full cost of providing all pri-
20 mary health care, enabling services, and appropriate
21 supplemental health services.”.

22 (f) FUNDING PREFERENCES.—Section 330(k) of
23 such Act (42 U.S.C. 254c(k)) is amended—

24 (1) by inserting “(1)” after the subsection des-
25 ignation; and

1 (2) by adding at the end thereof the following
2 new paragraph:

3 “(2) In making grants under this section, the Sec-
4 retary shall give preference as follows:

5 “(A) As between an application for a grant
6 under subsection (l) to plan, develop, or operate a
7 community health service network or plan and an
8 application for a grant under subsection (m) to plan,
9 develop, or operate a health network or plan serving
10 the same medically underserved population, the Sec-
11 retary shall give preference to the applicant that is
12 or will be a community health service plan or net-
13 work in accordance with subsection (l).

14 “(B) As between two or more applications
15 under subsection (m) to serve the same medically
16 underserved population, preference shall be given to
17 applicants that include as participating providers the
18 greatest number of entities providing health services
19 under grants under section 329, this section and
20 section 340.”.

21 (g) MISCELLANEOUS AND CONFORMING AMEND-
22 MENTS.—

23 (1) APPLICATION.—Section 330(c) of such Act
24 (42 U.S.C. 254c(c)) is amended—

25 (A) in paragraph (1)—

1 (i) in the matter preceding subpara-
2 graph (A), by striking “loans) and shall in-
3 clude—” and inserting a period; and

4 (ii) by striking subparagraphs (A)
5 through (D); and

6 (B) by adding at the end thereof the fol-
7 lowing new paragraph:

8 “(4) No grant may be made under paragraph (1) un-
9 less an application therefor is submitted to and approved
10 by, the Secretary. Such an application shall be submitted
11 in such form and manner and contain such information
12 as the Secretary may prescribe, and shall include—

13 “(A) an assessment of the need that the popu-
14 lation proposed to be served by the community
15 health center for which the project is undertaken has
16 for enabling services, primary health services, sup-
17 plemental health services, and environmental health
18 services;

19 “(B) the design of a community health center
20 program for such population based on such assess-
21 ment;

22 “(C) efforts to secure, within the proposed
23 catchment area of such center, financial and profes-
24 sional assistance and support for the project; and

1 “(D) initiation and encouragement of continu-
2 ing community involvement in the development and
3 operation of the project.”.

4 (2) DEMONSTRATION OF SUPPORT.—

5 (A) Section 330(e)(2) of such Act (42
6 U.S.C. 254c(e)(2)) is amended—

7 (i) in the first sentence, by striking
8 “subparagraph (A) or (B) of”;

9 (ii) in the first sentence, by striking
10 “for a community health center” and all
11 that follows through “Such an application
12 shall also” in the second sentence and in-
13 serting “shall”; and

14 (iii) by adding at the end thereof the
15 following new sentence: “An application for
16 a grant under subparagraph (B) of sub-
17 section (d)(1) must demonstrate how the
18 entity will meet all of the requirements of
19 subsection (e)(3) by the end of the period
20 of support under such subsection.”.

21 (B) Section 330(e)(3) of such Act (42
22 U.S.C. 254c(e)(3)) is amended by adding at the
23 end thereof the following new sentence: “The
24 Secretary may not approve an application under
25 subsection (d)(1)(B) unless the Secretary deter-

1 mines that the entity will meet all of the re-
2 quirements of this paragraph by the end of the
3 period of support under such subsection.”.

4 (3) FACILITIES.—Section 330(e)(6) of such Act
5 (42 U.S.C. 254c(e)(6)) is amended—

6 (A) by striking “(c) or (d)” and inserting
7 “(c), (d) or (l)”;

8 (B) by inserting “network or plan” after
9 “community health center”.

10 (4) CONFORMING AMENDMENTS.—Section 330
11 of such Act (42 U.S.C. 254c) is amended—

12 (A) in subsection (f)—

13 (i) in paragraph (1), by striking
14 “(e)(2)” and inserting “(e)(3)”;

15 (ii) by adding at the end thereof the
16 following new paragraph:

17 “(3) The Secretary may award (by grant or contract)
18 funds to nonprofit private entities to support the costs of
19 developing and implementing, on a national basis, joint
20 purchasing arrangements and other projects designed to
21 reduce the operational costs of recipients of grants under
22 this section.”; and

23 (B) in paragraphs (1) and (2) of sub-
24 section (i), by striking “subsection (d)” and in-
25 serting “under this section”.

1 **SEC. 3. ESTABLISHING A PROGRAM OF LOANS AND LOAN**
2 **GUARANTEES.**

3 (a) PROGRAM OF LOANS AND LOAN GUARANTEES.—
4 Subpart I of part D of title III of the Public Health Serv-
5 ice Act (42 U.S.C. 254b et seq.) is amended by adding
6 at the end thereof the following new section:

7 **“SEC. 330A. FEDERAL LOAN AND LOAN GUARANTEE PRO-**
8 **GRAM.**

9 “(a) LOANS AND LOAN GUARANTEES.—

10 “(1) IN GENERAL.—From the fund established
11 under subsection (b), the Secretary may make loans,
12 and guarantee the payment of principal and interest
13 to Federal and non-Federal lenders for loans, to any
14 public or nonprofit private entity that receives a
15 grant under sections 329, 330, or 340 for projects
16 for—

17 “(A) the acquisition, modernization, expan-
18 sion or construction of facilities, or the conver-
19 sion of unneeded hospital facilities to facilities
20 that will assure or enhance the provision and
21 accessibility of primary health care and ena-
22 bling services to medically underserved popu-
23 lations;

24 “(B) the purchase of major equipment, in-
25 cluding equipment necessary for the support of
26 external and internal information systems;

1 “(C) the establishment of reserves required
2 for furnishing services on a prepaid basis; and

3 “(D) such other capital costs as the Sec-
4 retary may determine are necessary to enable
5 the grant recipient to achieve the objectives of
6 section 329, 330 or 340, as applicable.

7 “(2) PREFERENCES AND PRIORITIES.—

8 “(A) PREFERENCE.—In making loans and
9 loan guarantees under this section, the Sec-
10 retary shall give preference to applications sub-
11 mitted by community health centers that have
12 received grants under section 330(d)(1)(A) and
13 community health service networks or plans
14 that have received grants under section 330(l).

15 “(B) PRIORITY.—In making loans and
16 loan guarantees under this section, the Sec-
17 retary shall give priority to applications for
18 projects for the renovation and modernization
19 of medical facilities necessary to prevent or
20 eliminate safety hazards, avoid noncompliance
21 with licensure or accreditation standards, or
22 projects to replace obsolete facilities.

23 “(C) CONSTRUCTION OF NEW BUILD-
24 INGS.—The Secretary may make loans or loan
25 guarantees for the construction of new build-

1 ings only if the Secretary determines that ap-
2 propriate facilities are not available through ac-
3 quiring, modernizing, expanding, or converting
4 existing buildings, or that construction of new
5 buildings will cost less.

6 “(3) INTEREST SUBSIDIES.—The Secretary
7 may pay, to the holder of a loan made to any recipi-
8 ent of a grant under sections 329, 330, or 340, for
9 and on behalf of the project for which the loan was
10 made, amounts sufficient to reduce, up to 75 percent
11 the net effective interest rate otherwise payable on
12 such loan, if the Secretary finds that without such
13 assistance the project could not be undertaken.

14 “(4) TOTAL COVERAGE OF COSTS.—The prin-
15 cipal amount of a loan directly made or guaranteed
16 under this section may, when added to any other as-
17 sistance provided under section 329, 330, or 340,
18 cover up to 100 percent of the costs of the project
19 for which any such assistance is provided.

20 “(5) LIMITATION.—The cumulative total of the
21 principal of the loans outstanding at any time with
22 respect to which guarantees have been issued, or
23 which have been directly made, under this section
24 may not exceed limitations as may be specified in
25 appropriation Acts.

1 “(6) APPROVAL AND TERMS AND CONDI-
2 TIONS.—

3 “(A) APPROVAL OF GUARANTEES.—The
4 Secretary may not approve a loan guarantee for
5 a project under this section unless the Sec-
6 retary determines that the terms, conditions,
7 security (if any), and schedule and amount of
8 repayments with respect to the loan are suffi-
9 cient to protect the financial interests of the
10 United States and are otherwise reasonable.

11 “(B) TERMS AND CONDITIONS.—Guaran-
12 tees of loans under this section shall be subject
13 to such further terms and conditions as the
14 Secretary determines to be necessary to assure
15 that the purposes of this section will be
16 achieved.

17 “(7) LOAN REQUIREMENTS.—

18 “(A) IN GENERAL.—The Secretary may
19 approve a loan under this section only if—

20 “(i) the Secretary is reasonably satis-
21 fied that the applicant for the project for
22 which the loan would be made will be able
23 to make payments of principal and interest
24 thereon when due; and

1 “(ii) the applicant provides the Sec-
2 retary with reasonable assurances that
3 there will be available to the applicant such
4 additional funds as may be necessary to
5 complete the project or undertaking with
6 respect to which such loan is requested.

7 “(B) OTHER REQUIREMENTS.—Any loan
8 made under this section shall—

9 “(i) have such security;

10 “(ii) have such maturity date;

11 “(iii) be repayable in such install-
12 ments;

13 “(iv) bear interest at a rate com-
14 parable to the rate of interest prevailing on
15 the date the loan is made, minus any inter-
16 est subsidy made in accordance with para-
17 graph (3); and

18 “(v) be subject to such other terms
19 and conditions (including provisions for re-
20 covery in case of default), as the Secretary
21 determines to be necessary to carry out the
22 purposes of this section and sections 329,
23 330 and 340, as applicable, while ade-
24 quately protecting the financial interests of
25 the United States.

1 “(C) WAIVER OF RIGHT OF RECOVERY.—

2 The Secretary may, for good cause but with due
3 regard to the financial interests of the United
4 States, waive any right of recovery which the
5 Secretary has by reason of the failure of a bor-
6 rower to make payments of principal of and in-
7 terest on a loan made under this subsection, ex-
8 cept that if such loan is sold and guaranteed,
9 any such waiver shall have no effect upon the
10 Secretary’s guarantee of timely payment of
11 principal and interest.

12 “(b) LOAN AND LOAN GUARANTEE FUND.—

13 “(1) ESTABLISHMENT.—There is established in
14 the Treasury a loan and loan guarantee fund (here-
15 after in this subsection referred to as the “fund”)
16 which shall be available as may be specified from
17 time to time in appropriations Acts to enable the
18 Secretary to make loans, loan guarantees, payment
19 of interest subsidies and such other actions as au-
20 thorized under subsection (a). There shall also be
21 deposited in the fund amounts received by the Sec-
22 retary in connection with loans and loan guarantees
23 under this section and other property or assets de-
24 rived by the Secretary from operations respecting

1 such loans and loan guarantees, including any
2 money derived from the sale of assets.

3 “(2) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated
5 \$100,000,000 for each of the fiscal years 1995
6 through 2005, and such additional amounts as may
7 be necessary to provide the sums required for the
8 fund. The preceding sentence constitutes budget au-
9 thority in advance of appropriations Acts and rep-
10 resents the obligation of the Federal Government to
11 provide funding for payments in the amounts and
12 for the fiscal years authorized under this section.

13 “(c) DEFAULT.—

14 “(1) IN GENERAL.—The Secretary may take
15 such action as may be necessary to prevent a default
16 on a loan made or guaranteed under subsection (a),
17 including the waiver of regulatory conditions, defer-
18 ral of loan payments, renegotiation of loans, and the
19 expenditure of funds for technical and consultative
20 assistance, for the temporary payment of the inter-
21 est and principal on such a loan, and for other pur-
22 poses.

23 “(2) FORECLOSURE.—The Secretary may take
24 such action, consistent with State law respecting
25 foreclosure procedures, as the Secretary deems ap-

1 appropriate to protect the interest of the United States
2 in the event of a default on a loan made or guaran-
3 teed under subsection (a), including selling real
4 property pledged as security for such a loan or loan
5 guarantee and for a reasonable period of time taking
6 possession of, holding, and using real property
7 pledged as security for such a loan or loan guaran-
8 tee.

9 “(d) APPLICATIONS.—No loan or loan guarantee may
10 be made under this section unless an application is sub-
11 mitted to and approved by the Secretary. The application
12 shall be in the form and manner and contain such infor-
13 mation as the Secretary may prescribe, and if the project
14 is for the construction, conversion, expansion, or mod-
15 ernization of a facility, the application shall at a minimum
16 meet the requirements of section 330(e)(1).

17 “(e) RIGHT OF RECOVERY.—

18 “(1) IN GENERAL.—If any facility with respect
19 to which a loan or loan guarantee was made under
20 this section, or with respect to which a grant was
21 made under section 329, 330, or 340, for the con-
22 struction, acquisition, expansion, or modernization,
23 shall at any time within 20 years after completion—

24 “(A) be sold or transferred to any entity
25 which is not eligible for assistance under section

1 329, 330 or 340 or which is not approved by
2 the Secretary as a transferee; or

3 “(B) cease to be a public or nonprofit en-
4 tity that is eligible for assistance under section
5 329, 330 or 340;

6 the United States shall be entitled to recover from
7 the recipient of the grant, loan, or loan guarantee,
8 the purchaser or transferee, the amount of the
9 grant, loan, or loan guarantee plus interest. This
10 right of recovery shall not constitute a lien on any
11 facility with respect to which a grant was made
12 under sections 329, 330, 340, or with respect to
13 which funds have been paid under this section.

14 “(2) WAIVER.—Notwithstanding paragraph (1),
15 the Secretary shall subordinate or waive the right of
16 recovery and any other Federal interest that may be
17 derived by virtue of a loan or loan guarantee under
18 this section, or a grant under section 329, 330, or
19 340, to support the construction, acquisition, mod-
20 ernization, expansion, or conversion of a facility or
21 other capital project authorized under this section,
22 where the facility is being used as security for a new
23 loan that will support improvements to the facility,
24 construction of new primary health care facilities or
25 improvements of health services described in section

1 330(a) to medically underserved populations, or
 2 where the facility is being sold in order to finance
 3 the acquisition or construction of another facility
 4 which will be used for the purposes authorized by
 5 section 329, 330 or 340, if the Secretary obtains an
 6 equivalent right of recovery or interest in the new
 7 facility.”.

8 (b) TAX EXEMPTION FOR STATE AND LOCAL BONDS
 9 NOT AFFECTED BY LOAN GUARANTEES.—Section
 10 149(b)(3)(A) of the Internal Revenue Code of 1986 is
 11 amended—

12 (1) in clause (ii), by striking “or” at the end
 13 thereof;

14 (2) in clause (iii), by striking the period and in-
 15 serting “, or”; and

16 (3) by adding at the end thereof the following
 17 new clause:

18 “(iv) any guarantee by the Loan and
 19 Loan Guarantee Fund pursuant to section
 20 330A of the Public Health Service Act.”.

21 **SEC. 4. AMENDMENTS TO THE MIGRANT HEALTH CENTERS**
 22 **AND HEALTH CARE FOR THE HOMELESS PRO-**
 23 **GRAM AUTHORITIES.**

24 (a) ENABLING AND OUTREACH SERVICES.—

1 (1) MIGRANT HEALTH CENTERS.—Section
2 329(a)(1) of the Public Health Service Act (42
3 U.S.C. 254b(a)(1)) is amended—

4 (A) in the matter preceding subparagraph
5 (A), by inserting after “entities provides” the
6 following: “at appropriate locations, which may
7 include schools and other sites”;

8 (B) in subparagraph (G), by striking
9 “and” at the end thereof;

10 (C) in subparagraph (H)—

11 (i) by inserting after the subpara-
12 graph designation the following: “the serv-
13 ices of outreach workers and others to de-
14 termine, or assist in determining, the eligi-
15 bility of individuals to receive services and
16 benefits under Federal, State, and local
17 health programs, and to assist such indi-
18 viduals in enrolling in such programs, and
19 other”; and

20 (ii) by adding “and” at the end there-
21 of; and

22 (D) by inserting after subparagraph (H),
23 the following new subparagraph:

24 “(I) enabling services (defined as services
25 that are not otherwise described in this sub-

1 section) that promote access to necessary health
 2 and other human and social services, and that
 3 increase the capacity of individuals to utilize the
 4 items and services that are included as covered
 5 benefits under Federal, State, or local health
 6 programs.”.

7 (2) HOMELESS HEALTH SERVICES.—Section
 8 340(i) of such Act (42 U.S.C. 256(i)) is amended—

9 (A) in paragraph (1)—

10 (i) in subparagraph (B), by adding
 11 “and” at the end thereof;

12 (ii) in subparagraph (C), by striking
 13 “; or” and inserting a period; and

14 (iii) by striking subparagraph (D);
 15 and

16 (B) in paragraph (2), to read as follows:

17 “(2) A grant may include the acquisition, expansion,
 18 or modernization of existing buildings, and the construc-
 19 tion of new buildings (if the Secretary determines that ap-
 20 propriate facilities are not available through the acquisi-
 21 tion, expansion or modernization of existing buildings, or
 22 that construction of a new building will cost less).”.

23 (3) DEFINITIONS.—Section 340(r) of such Act
 24 (42 U.S.C. 256(r)) is amended—

1 (A) in paragraph (1), by adding “, supple-
2 mental health services and enabling services”
3 before “substance abuse services”; and

4 (B) in paragraph (6), to read as follows:

5 “(6) The terms ‘primary health services’, ‘sup-
6 plemental health services’ and ‘enabling services’
7 shall have the same meanings given such terms in
8 section 330(a).”.

9 (b) AUTHORIZATION OF APPROPRIATIONS.—

10 (1) MIGRANT HEALTH CENTERS.—Section
11 329(h)(1)(A) of such Act (42 U.S.C. 254b(h)(1)(A))
12 is amended by striking “\$48,500,000” and all that
13 follows through the end thereof and inserting the
14 following: “\$100,000,000 for fiscal year 1995,
15 \$110,000,000 for fiscal year 1996, \$120,000,000 for
16 fiscal year 1997, \$130,000,000 for fiscal year 1998,
17 \$140,000,000 for fiscal year 1999, \$150,000,000 for
18 fiscal year 2000, and not less than \$150,000,000 for
19 each of the fiscal years 2001 through 2005. The
20 preceding sentence constitutes budget authority in
21 advance of appropriations Acts and represents the
22 obligation of the Federal Government to provide
23 funding for payments in the amounts, and for the
24 fiscal years specified under this section. Such levels

1 shall not be subject to offset or reprogramming for
2 any reason.”.

3 (2) HOMELESS HEALTH SERVICES.—Section
4 340(q)(1) of such Act (42 U.S.C. 256(q)(1)) is
5 amended by striking “\$70,000,000” and all that fol-
6 lows through the end thereof and inserting the fol-
7 lowing: “\$100,000,000 for fiscal year 1995,
8 \$110,000,000 for fiscal year 1996, \$120,000,000 for
9 fiscal year 1997, \$130,000,000 for fiscal year 1998,
10 \$140,000,000 for fiscal year 1999, \$150,000,000 for
11 fiscal year 2000, and not less than \$150,000,000 for
12 each of the fiscal years 2001 through 2005. The
13 preceding sentence constitutes budget authority in
14 advance of appropriations Acts and represents the
15 obligation of the Federal Government to provide
16 funding for payments in the amounts, and for the
17 fiscal years specified under this section. Such levels
18 shall not be subject to offset or reprogramming for
19 any reason.”.

20 **SEC. 5. EXPANDING THE NATIONAL HEALTH SERVICE**
21 **CORPS.**

22 (a) ADDITIONAL FUNDING FOR CORPS PROGRAMS.—
23 Section 338(a) of the Public Health Service Act (42
24 U.S.C. 254k(a)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3); and

3 (2) by inserting after paragraph (1), the follow-
4 ing new paragraph:

5 “(2)(A) For the purpose of carrying out this para-
6 graph, there are authorized to be appropriated
7 \$50,000,000 for fiscal year 1995, \$100,000,000 for fiscal
8 year 1996, and \$200,000,000 for each of the fiscal years
9 1997 through 2000. The preceding sentence constitutes
10 budget authority in advance of appropriations Acts and
11 represents the obligation of the Federal Government to
12 provide funding for payments in the amounts, and for the
13 fiscal years, specified under this section. Such levels shall
14 not be subject to offset or reprogramming for any reason.

15 “(B) The authorizations of appropriations established
16 in subparagraph (A) are in addition to the authorizations
17 of appropriations in paragraph (1).

18 “(C) Of the amounts appropriated under subpara-
19 graph (A), the Secretary shall reserve such amounts as
20 may be necessary to ensure that, of the aggregate number
21 of individuals who are participants in the Scholarship Pro-
22 gram under section 338A, or in the Loan Repayment Pro-
23 gram under section 338B, the total number who are being
24 educated as nurses or are serving as nurses, respectively,
25 is increased to 20 percent.

1 “(D) Notwithstanding section 333(a)(3) and the pri-
 2 orities stated in section 333A for approval of applications
 3 for the assignment of Corps members, to the extent that
 4 additional funds appropriated pursuant to subparagraph
 5 (A) increases the number of individuals participating in
 6 the Scholarship Program under section 338A and in the
 7 Loan Repayment Program under section 338B over the
 8 number of individuals participating in such programs in
 9 fiscal year 1994, the Secretary shall give preference in as-
 10 signing those individuals to applicants that serve a health
 11 professional shortage area and receive grants to provide
 12 health services and enabling services under section 329,
 13 330 or 340 (including, but not limited to, networks and
 14 plans awarded funds under section 330) and other feder-
 15 ally qualified health centers as defined in section
 16 1861(aa)(4) of the Social Security Act.”.

17 **SEC. 6. FACILITATING THE PARTICIPATION OF COMMUNITY**
 18 **PROVIDERS IN HEALTH PROFESSIONS TRAIN-**
 19 **ING.**

20 (a) PREFERENCE FOR CERTAIN HEALTH PROFES-
 21 SIONS PROGRAM APPLICANTS.—Section 791(a)(1) of the
 22 Public Health Service Act (42 U.S.C. 295j(a)(1)) is
 23 amended—

1 (1) by inserting after “or 767,” the following:
2 “or under sections 777 and 778, in addition to pref-
3 erences stated in such sections,”; and

4 (2) by striking subparagraphs (A) and (B) and
5 inserting the following new subparagraphs:

6 “(A) is (or is a co-applicant with) an entity
7 that receives support under section 329, 330, or
8 340, or that is certified as a federally qualified
9 health center under section 1861(aa)(4) of the
10 Social Security Act; and

11 “(B) either—

12 “(i) has a high rate for placing grad-
13 uates in practice settings having the prin-
14 ciple focus of serving residents of medically
15 underserved communities; or

16 “(ii) during the 2-year period preced-
17 ing the fiscal year for which such an award
18 is sought, has achieved a significant in-
19 crease in the rate of placing graduates in
20 such settings.”.

21 (b) PREFERENCE FOR CERTAIN NURSE TRAINING
22 PROGRAM APPLICANTS.—Section 860(e)(1)(A) of such
23 Act (42 U.S.C. 298b–7(e)(1)(A)) is amended—

1 (1) by striking “821, 822, 830, and 831” and
2 inserting “820(b), 820(c), 821, 822, 827, 830, and
3 831”;

4 (2) by striking clauses (i) and (ii) and inserting
5 the following new clauses:

6 “(i) is (or is a co-applicant with) an
7 entity that receives support under section
8 329, 330, or 340, or that is certified as a
9 federally qualified health center under sec-
10 tion 1861(aa)(4) of the Social Security
11 Act; and

12 “(ii) either—

13 “(I) has a high rate for placing
14 graduates in practice settings having
15 the principle focus of serving residents
16 of medically underserved communities;
17 or

18 “(II) during the 2-year period
19 preceding the fiscal year for which
20 such an award is sought, has achieved
21 a significant increase in the rate of
22 placing graduates in such settings.”.

23 (c) PAYMENT FOR DIRECT COSTS OF GRADUATE
24 MEDICAL EDUCATION.—Section 1886(h)(4)(E) of the So-
25 cial Security Act (42 U.S.C. 1395ww(h)(4)(E)) is amend-

1 ed by striking “that setting.” and inserting the following:
 2 “that setting (or, in the case of activities performed at
 3 a federally qualified health center described in section
 4 1861(aa)(4), if the hospital incurs any of the costs for the
 5 training program at such center and reimburses the center
 6 for any of the costs of the program that the center in-
 7 curs).”.

8 (d) PAYMENT FOR INDIRECT COSTS OF GRADUATE
 9 MEDICAL EDUCATION.—Section 1886(d)(5)(B)(iv) of the
 10 Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(iv)), as
 11 amended by section 13506 of the Omnibus Budget Rec-
 12 onciliation Act of 1993, is amended—

13 (1) by striking “entity receiving a grant” and
 14 all that follows through “control of the hospital” and
 15 inserting “federally qualified health center described
 16 in section 1861(aa)(4)”;

17 (2) by striking “all, or substantially all, of the
 18 costs” and inserting “any of the costs”; and

19 (3) by striking “residents)” and inserting “resi-
 20 dents and reimburses the center for any of the costs
 21 of the program that the center incurs)”.

22 (e) CLARIFYING ALLOWABILITY OF COSTS.—Section
 23 1833(a)(3) of the Social Security Act (42 U.S.C.
 24 1395l(a)(3)) is amended by inserting after words “fur-
 25 nishing such services” the following: “(including, without

1 limitation, all costs associated with participation in an ap-
 2 proved medical residency training program)’’.

3 (f) EFFECTIVE DATE.—The amendments made by
 4 subsections (c), (d), and (e) shall apply to services fur-
 5 nished during cost reporting periods beginning on or after
 6 October 1, 1994.

7 **SEC. 7. PROVIDING SAFEGUARDS FOR RURAL HEALTH**
 8 **CLINICS AND FEDERALLY QUALIFIED**
 9 **HEALTH CENTERS IN MEDICAID DEMONSTRA-**
 10 **TIONS.**

11 (a) FREEDOM OF CHOICE.—Section 1115(a)(1) of
 12 the Social Security Act (42 U.S.C. 1315(a)(1)) is amend-
 13 ed by inserting after “or 1902” the following: “(other than
 14 sections 1902(a)(13)(E), 1902(a)(10)(A), and
 15 1902(a)(23) insofar as they require the provision of, pay-
 16 ment for, and allow freedom of choice to select the pro-
 17 vider of, the care and services described in section
 18 1905(a)(2)(B) and (C))’’.

19 (b) NO AUTHORITY TO WAIVE COMPLIANCE.—Sec-
 20 tion 1115(a)(2) of such Act (42 U.S.C. 1315(a)(2)) is
 21 amended by inserting before the period the following: “,
 22 except that this paragraph shall not provide authority for
 23 the Secretary to waive compliance by a State with the re-
 24 quirements of section 1903(m)(2)(A)(ix) or 1903(m)(3)’’.

1 (c) WAIVERS.—Section 1915(b) of such Act (42
2 U.S.C. 1396n(b)) is amended—

3 (1) in the first sentence, by striking
4 “1905(a)(2)(C)” and inserting “1905(a)(2)(B) and
5 (C)”; and

6 (2) in the last sentence, by inserting before the
7 period the following: “or under section
8 1905(a)(2)(B) and (C)”.

9 (d) PAYMENTS TO STATES.—Section 1903(m) of
10 such Act (42 U.S.C. 1396b(m)) is amended:

11 (1) in paragraph (2)(G), by inserting “or is an
12 entity primarily owned and controlled by such grant-
13 ee or grantees,” after “Public Health Service Act”;
14 and

15 (2) by inserting after paragraph (2) the follow-
16 ing new paragraph:

17 “(3) Notwithstanding sections 1115 and 1915(b), in
18 the event that a State agency contracts with an entity de-
19 scribed in paragraph (2)(A) or an entity similar to such
20 entity, such State agency, upon receiving an offer to pro-
21 vide health care services from a rural health clinic or a
22 federally qualified health center operating in the same geo-
23 graphic area as such entity, shall enter into a contract
24 with such clinic or center for the provision of all health
25 care services referred to in such offer and, unless the clinic

1 or center elects otherwise, the payment made by the State
 2 to such clinic or center for services described in section
 3 1905(a)(2) (B) and (C) to the individuals proposed to be
 4 served in the clinic's or center's offer shall be made at
 5 the rates of payment specified in section
 6 1902(a)(13)(E).''.

7 (e) CONFORMING AMENDMENTS.—

8 (1) STATE PLANS.—Section 1902(e)(2)(A) of
 9 such Act (42 U.S.C. 1396a(e)(2)(A)) is amended by
 10 inserting “(or an entity primarily owned and con-
 11 trolled by a grantee or grantees described in para-
 12 graph (2)(G))” after “(2)(G)”.

13 (2) STATE PAYMENTS.—Section
 14 1903(m)(2)(F)(i) of such Act (42 U.S.C.
 15 1396b(m)(2)(F)(i)) is amended by inserting “(or an
 16 entity primarily owned and controlled by a grantee
 17 or grantees described in subparagraph (G))” after
 18 “(G)”.

19 **SEC. 8. PROVIDING SAFE HARBOR FOR CERTAIN COLLABO-**
 20 **RATIVE EFFORTS THAT BENEFIT MEDICALLY**
 21 **UNDERSERVED PERSONS.**

22 Section 1128B(b)(3) of the Social Security Act (42
 23 U.S.C. 1320a–7b(b)(3)) is amended—

24 (1) in subparagraph (D), by striking “and” at
 25 the end thereof;

1 (2) in subparagraph (E), by striking the period
2 and inserting “; and”; and

3 (3) by adding at the end thereof the following
4 new subparagraph:

5 “(F) any remuneration paid by or to a recipient
6 or subrecipient of Federal grant funds under or in
7 connection with an arrangement for the procurement
8 of goods or services by the recipient or subrecipient,
9 the referral of patients, or the lease or purchase of
10 space or equipment, if—

11 “(i) the arrangement is in writing and
12 signed by the parties;

13 “(ii) the arrangement will result in the
14 savings of Federal grant funds or increased rev-
15 enues to the recipient or subrecipient that will
16 be used to increase the availability or accessibil-
17 ity of services to a medically underserved popu-
18 lation served by the recipient or subrecipient or
19 an improvement in the quality of services to
20 such population: *Provided*, that the recipient or
21 subrecipient may seek a prior determination
22 from the Public Health Service that the re-
23 quirement of this clause is met and, if the re-
24 cipient or subrecipient does so, Public Health

1 Service approval shall be conclusive and binding
2 on the Federal Government;

3 “(iii) the arrangement will not result in
4 private inurement to any current employees or
5 members of the Board of Directors of the recip-
6 ient or subrecipient, or to agents of the recipi-
7 ent or subrecipient who were involved in rec-
8 ommending or negotiating the arrangement;

9 “(iv) with respect to an arrangement under
10 which a recipient or subrecipient is procuring
11 goods or services, the provider of the goods or
12 services is the only provider able to supply such
13 goods or services, or the recipient or sub-
14 recipient has engaged in a competitive process
15 to procure the goods or services that meets the
16 requirements for competition under Federal
17 grant awards;

18 “(v) with respect to an arrangement for a
19 referral of patients, the arrangement will assure
20 that all patients covered or affected by the ar-
21 rangement are advised that they may request a
22 referral to any person or entity of their choos-
23 ing, subject to appropriate contractual limita-
24 tions under which the recipient or subrecipient
25 may operate as a health plan or as a contract

1 health plan provider and such limitations as the
2 patient may be under as an enrollee of a health
3 plan; and

4 “(vi) with respect to an arrangement for a
5 referral of patients, the arrangement will not
6 interfere with the discretion of health profes-
7 sionals to refer patients in a manner they be-
8 lieve will most appropriately deal with a pa-
9 tient’s particular circumstances, subject to ap-
10 propriate contractual limitations under which
11 the recipient or subrecipient may operate as a
12 health plan or as a contract health plan pro-
13 vider and such limitations as the patient may
14 be under as an enrollee of a health plan.

15 With respect to any arrangement that does not meet the
16 requirements of subparagraph (F), paragraphs (1) and (2)
17 shall not apply when the recipient or subrecipient of Fed-
18 eral grant funds has applied to the Secretary for approval
19 of the arrangement and the Secretary, after consultation
20 with the Department of Health and Human Services Of-
21 fice of Inspector General, has approved the arrangement
22 based upon a finding that the arrangement will produce
23 a substantial benefit to a medically underserved popu-
24 lation that outweighs the arrangement’s failure to fully
25 satisfy all of the requirements of such subparagraph. For

1 any arrangement existing on the date of enactment of the
2 Access to Community Health Care Act of 1994, that in-
3 volves a recipient or subrecipient of Federal grant funds
4 that does not meet the requirements of subparagraph (F)
5 and would subject the recipient or subrecipient to criminal
6 penalties under paragraphs (1) or (2), the recipient or
7 subrecipient shall be immune from criminal prosecution
8 under paragraph (1) or (2), except that such immunity
9 shall only apply if, not later than 6 months after such date
10 of enactment, the arrangement is terminated or amended
11 to conform to the requirements of subparagraph (F). For
12 purposes of this paragraph, a ‘recipient’ shall mean a pub-
13 lic or nonprofit private entity that receives a grant or co-
14 operative agreement under the Public Health Service Act
15 or under title V of this Act. For purposes of this section,
16 a ‘subrecipient’ shall mean a public or nonprofit private
17 entity that performs substantive work under a grant or
18 cooperative agreement under the Public Health Service
19 Act or under title V of this Act to a recipient.”.

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